

New York school controversy targets America's churches

by Randy Bright <http://www.tulsabeacon.com/?p=5796>

Last December, the U.S. Supreme Court refused to hear a case brought by the Bronx Household of Faith, a congregation that had for years rented and used New York City school facilities for its Sunday services.

The refusal allowed the current decision by the Second U.S. Circuit Court of Appeals to stand, which gave the City of New York the ability to ban churches from using their facilities. Under the direction of Mayor Bloomberg, who agreed with the decision, the ban took effect on February 12.

The court had determined that when the city allowed churches to use their facilities, it amounted to an “unintended bias in favor of Christian religions” Because schools were generally only available for services on Sundays, the court said that Jews and Muslims were being discriminated against, since they would typically need facilities on other days of the week.

In keeping with the same liberal thinking of the Obama administration to dictate to the Catholic Church to practice abortion, sterilizations and contraception against their beliefs, the judge in the case asserted his disdain for the Bronx Household of Faith saying, “Bronx Household acknowledges that it excludes persons not baptized, as well as persons who have been excommunicated or who advocate the Islamic religion from full participation in its services.” Would this judge have allowed this congregation to continue to use the school for services if it would only change its beliefs to coincide with his?

The Alliance Defense Fund has succeeded in obtaining a ten-day temporary restraining order by the US District Court for the Southern District of New York to prevent the enforcement of the ban while its judge reviews the case. The order was issued because “the plaintiffs have demonstrated irreparable harm and a likelihood of success on the merits of their Free Exercise and Establishment Clause claims.”

The New York legislature is also working on a bill that would prevent similar bans from being enforced, and would overturn New York City's ban. The bill has already been passed by the New York Senate, but despite broad majority support in the House, it is being held up by one Democrat Representative.

A New York City councilor, who opposes the ban, said that he believes the effort to stop the bill's passage is due to the efforts of the ACLU.

If this ban is allowed to stand, it would embolden cities across the nation to enact similar bans. As discriminatory and unconstitutional as this is, there is another long-range effect that this kind of ban could have on churches.

As more and more cities enact new zoning laws that restrict what and where churches can build, the number of new churches that will be built will certainly decline.

As time passes, attrition will eliminate other churches as their facilities become too aged or obsolete to meet their needs. It is likely that many of these churches could not be replaced because the new codes will prohibit them in favor of owners who will pay property or sales taxes.

As churches lose more places in the community, the use of public facilities may be one of the only options left as places where they can assemble. Banning churches from using these spaces will reduce their ability to meet even more. Urban growth boundaries and construction moratoriums created by zoning codes will eliminate the option of building on the outskirts of town, effectively giving churches no place to go.

If, as in this case, cities can ban churches from using public facilities claiming that it is state endorsement of religion, then that excuse could also be used in other situations.

Could the day come when a city refuses to grant a building permit to a church because it is an endorsement of religion? Sounds far-fetched, but banning churches from using schools sounds equally ridiculous, especially since the Founders routinely used the Capitol and other federal buildings for Sunday worship services. If they didn't see that as a state endorsement of religion, why should we?

This case has been in the courts since 1995, and a similar case heard by the US Supreme Court in 2002 held that it was unconstitutional to prohibit Bible study groups from using school facilities when it granted similar uses to other community groups.

But the Second District Court of Appeals held that the school had "become a church" when it was used by a church, and that restraining its use as such was not the restraint of religious expression.

The ignorance of the meaning of the Constitution, or perhaps even the refusal to accept its intended meaning is just more evidence that our many of our judges have a political agenda and are simply out of control. Let's hope the judge now hearing the case will do the right thing and prohibit the ban.

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